

On February 3, 1938, the claimant having appeared and having filed an answer, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28758. Adulteration of potatoes. U. S. 400 Sacks of Potatoes. Consent decree of condemnation. Property ordered released under bond conditioned that unfit portion be destroyed or denatured.** (F. & D. No. 41576. Sample No. 7716-D.)

These potatoes were seriously damaged by net necrosis.

On January 31, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about January 22, 1938, by Benjamin Balish Co., Inc., from Houlton, Maine, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Packed By Benjamin Balish Co. Inc. Houlton, Me."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On February 15, 1938, Benjamin Balish Co. Inc., having appeared and having admitted the allegations of the libel and consented, judgment of condemnation was entered, and the product was ordered released under bond conditioned that the good potatoes be separated from the bad under the supervision of this Department and that the bad be destroyed or denatured.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28759. Adulteration of dried pears. U. S. v. 34 Boxes of Dried Pears. Default decree of condemnation and destruction.** (F. & D. No. 41406. Sample No. 60832-C.)

This product contained evidence of insect infestation and other filth.

On January 13, 1938, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 34 boxes of dried pears at Denver, Colo., consigned by the California Packing Corporation, alleging that the article had been shipped in interstate commerce on or about July 23, 1937, from San Jose, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Goody Goody Brand Fancy Northern Pears, Packed by California Packing Corporation, Main Office San Francisco, Calif."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On March 1, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28760. Adulteration and misbranding of egg noodles. U. S. v. 285 Cases of Egg Noodles. Consent decree of condemnation and destruction.** (F. & D. Nos. 41412 to 41416, incl. Sample Nos. 57168-C to 57172-C, incl.)

Certain samples of this product were found to be insect-infested, some to contain added coloring, and others to be short of the declared weight.

On January 13, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 285 cases of egg noodles at New York, N. Y., alleging that the article had been shipped in interstate commerce by the Chicago Macaroni Co. from Chicago, Ill., on or about October 1, 13, and 23 and November 30, 1937, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Retail packages) "Cyrilla Brand Net Wt. 1 Lb. [or "12 oz." or "8 oz."] Pure Egg Noodles Manufactured By Chicago Macaroni Co., Chicago, Ill."

The article in certain lots was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance and in others in that it was mixed and colored in a manner whereby inferiority was concealed.

A portion was alleged to be misbranded in that the statement "Pure Egg Noodles" was false and misleading and tended to deceive and mislead the purchaser when applied to a product that was colored in a manner whereby its

inferiority was concealed. The lots contained in 12-ounce packages were alleged to be misbranded because they were short weight.

On March 9, 1938, the Chicago Macaroni Co., Inc., having appeared and admitted that the product was worm-infested and unfit for human consumption, but having denied that it was colored or short weight, and having consented to its destruction because it was wormy and unfit for human consumption, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28761. Adulteration of nut meats. U. S. v. 100 Pounds of Nut Meats. Default decree of condemnation and destruction. (F. & D. No. 41442. Sample No. 8991-D.)**

Samples of this product were decomposed, rancid, and insect-infested.

On January 20, 1938, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 pounds of nut meats at Hammond, Ind., alleging that the article had been shipped by the Queen Anne Candy Co. from Hammond, Ind., to Joliet, Ill., and that it had been returned on December 29, 1937, by the consignee, the Honest John Corporation, Joliet, Ill., to the Queen Anne Candy Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Queen Anne Quality Nut Meats."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On March 8, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28762. Misbranding of canned peas. U. S. v. 25 Cases of Early June Peas (and 3 other seizure actions). Default decrees of condemnation. Portions ordered delivered to charitable organizations. Remainder destroyed. (F. & D. Nos. 41471, 41667, 41681, 41772. Sample Nos. 7588-D, 7614-D, 7713-D, 7720-D.)**

This product was substandard because the peas were not immature, and it was not labeled to indicate that it was substandard.

On January 20 and February 10, 11, and 18, 1938, the United States attorneys for the Southern and Eastern Districts of New York and the District of Connecticut, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 25 cases of canned peas at New Rochelle, N. Y., 26 cases at Brooklyn, N. Y., 70 cases at Yonkers, N. Y., and 40 cases at Hartford, Conn., alleging that the article had been shipped in interstate commerce between the dates of August 23, 1937, and January 4, 1938, by Burgoon & Yingling from Gettysburg, Pa., and charging misbranding in violation of the Food and Drugs Act. Portions of the article were labeled: "B & Y Brand [or "National Park Brand"] Early June Peas \* \* \* Packed by Burgoon & Yingling Gettysburg, Pa." The remainder was labeled: "Daintee Brand \* \* \* I. Dickman & Sons Brooklyn, N. Y. Distributors."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On February 8, March 11, April 23, and May 11, 1938, no claimant having appeared, judgments of condemnation were entered. The lot seized at Brooklyn, N. Y., was ordered destroyed, and the remaining lots were ordered delivered to charitable institutions.

M. L. WILSON, *Acting Secretary of Agriculture.*

**28763. Adulteration of apples. U. S. v. 1 Carload of Apples. Consent decree of condemnation. Product released under bond for cleaning and removing spray residue. (F. & D. No. 41350. Sample No. 49472-C.)**

This product bore excess spray residue.

On October 21, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one carload of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or